

Central Intelligence Agency



Washington, D.C. 20505

OIT 0112-90

24 APR 1990

The Honorable Robert E. Wise, Jr.
Chairman
Subcommittee on Government Information,
Justice, and Agriculture
Committee on Government Operations
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This is in response to your letter of 14 March 1990 in which you asked our reason for classifying the list of initial-level denying officials on Freedom of Information Act (FOIA) requests; the list was submitted separately from the annual report.

You are correct in stating that each of these officers has already been identified to individual requesters in our response letters. In doing so over the years, we have been, in a sense, violating our own policy of not acknowledging Agency affiliation of any employees except the most senior, openly acknowledged officials. Names of Agency employees are protected by the National Security Act of 1947 and the CIA Act of 1949. These two statutes are essentially in conflict with the FOIA in that they require us to protect names of employees while the FOIA requires the release of the names of denying officials. We decided some years ago to include the names of deniers in our response letters to requesters in an effort to achieve the best compromise possible between the requirements of the National Security Act and the CIA Act on the one hand and the FOIA on the other. We are not totally comfortable with doing so, as some of these officers have subsequently been assigned overseas in a covert capacity.

A list of such names, however, is quite a different matter. Each year, copies of our annual report are requested by the hundreds from all segments of the public, particularly the news media. Over several years one could compile a substantial list of CIA employees just by asking for each year's annual report. We do not wish to classify the entire report by including the list of deniers, as it is of considerable interest to the public and consequently should be distributed as widely as possible. Such a list, because of the widespread circulation

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of our annual report, would make these officers more widely known to the general public and could place those later assigned overseas in personal danger.

In view of these considerations, we have decided to follow the practice of some other agencies, as mentioned in your letter, of identifying publicly only the signer of the response letter as the denier. This individual will continue to be our Information and Privacy Coordinator.

Concerning the listing of Judge Sporkin as the initial denier in one instance, he was, indeed, one of several deniers of records in that particular case. The search and review of records in the Office of General Counsel was completed while Judge Sporkin was our General Counsel, hence his designation as one of the deniers. Other components required more time to complete their processing in this case, so the final response could not be provided to the requester until 1989, long after Judge Sporkin had been appointed to the federal bench.

We hope you will find these comments responsive to your concerns, and we shall be happy to answer any further questions you may have.

Sincerely,

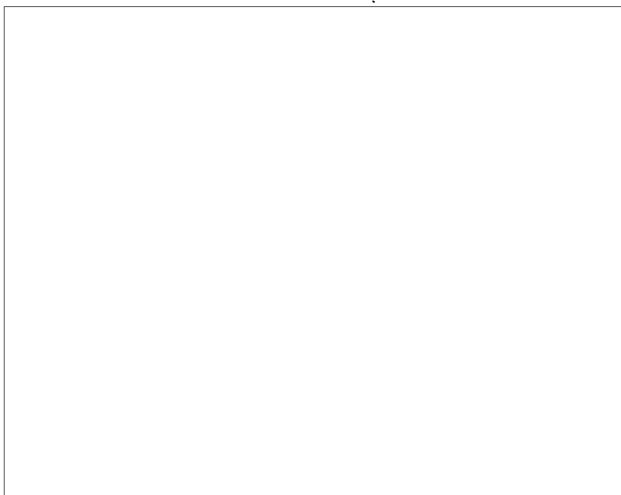
[Redacted Signature]

R. M. Huffstutler
Deputy Director
for
Administration

STAT

Subject: The Honorable Robert E. Wise, Jr.

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(27 Mar 1990)

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8-349-C RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515

March 14, 1990

Mr. R.M. Huffstutler
Deputy Director for Administration
Central Intelligence Agency
Washington, DC 20505

Dear Mr. Huffstutler:

I have received the list of names of persons responsible for the Central Intelligence Agency's denial of requests under the Freedom of Information Act. As the new Chairman of the Subcommittee during this Congress, I have just become aware of the past practice of filing this separately from the rest of the CIA's annual FOIA report.

As I understand the general practice in the annual FOIA report, each agency identifies as the responsible person the individual who signed the denial letter. At some agencies the responsible official is always the FOIA officer. At other agencies different agency officials may be identified as the responsible persons.

I am somewhat confused about the justification for the classification of this list at the CIA. If these individuals signed denial letters that were sent to requesters, I do not understand how their names can be classified since they have already been made public. In fact I assume that copies of the denial letters would be available to any requester under the FOIA.

I will, of course, abide by the agreement made by the former Chairman of the Subcommittee for the 1989 report. However, I would appreciate an explanation of the CIA's denial policies and a justification of the need to classify this list of names.

In addition, Stanley Sporkin, former general counsel to the CIA and current federal district court judge was identified as being responsible for one denial during calendar year 1989. I am not aware that Judge Sporkin was a CIA employee during this period and I would appreciate an explanation of his involvement in the denial of this request.

Thank you for your assistance.

Very truly yours,

Bob Wise
Chairman

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